

SUMMARY OF  
AIRPORT AND AIRCRAFT NOISE REDUCTION  
ACT (H.R. 8729) AND ADMINISTRATION  
PROPOSAL FOR REDUCTION IN  
CERTAIN AIRPORT AND AIR-  
WAY TRUST FUND TAXES

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## I. INTRODUCTION

This pamphlet has been prepared by the staff of the Joint Committee on Taxation for the use of the Committee on Ways and Means in its public hearing scheduled for February 6, 1977, on H.R. 8729 (Airport and Aircraft Noise Reduction Act) reported by the Committee on Public Works and Transportation (House Report No. 95-836; December 13, 1977).

The pamphlet provides an explanation of H.R. 8729 and the Administration's proposal for reduction in the air passenger ticket and air cargo waybill taxes. The Administration's proposed reduction in these taxes is contained in the President's Budget for Fiscal Year 1979. In addition, the pamphlet gives a description of the present law provisions and related background information regarding the Airport and Airway Trust Fund revenues and authorizations. Also, the present law description summarizes the income tax provisions relating to airline investments (investment credit, depreciation, and net operating loss provisions).

Finally, an appendix to the pamphlet provides statistical material on the projected Airport and Airway Trust Fund revenues and authorizations under present law and under the proposed changes (in H.R. 8729 and the tax reductions in the President's 1979 Budget).

## II. PRESENT LAW AND BACKGROUND OF AIRPORT AND AIRWAY TRUST FUND

### A. Trust Fund Taxes

The Airport and Airway Revenue Act of 1970 (title II of the Airport and Airway Development Act of 1970) increased some existing aviation user taxes, imposed some new user taxes and established the Airport and Airway Trust Fund for deposit of the aviation-related user taxes.

Under present law, excise taxes are imposed on the transportation of persons and property by air. In the case of air passenger transportation within the United States, this tax is 8 percent on the amount of the airfare, and it is scheduled to revert to 5 percent on July 1, 1980. There also is a \$3 tax per passenger for international air transportation that begins in the United States and for flights to and from Alaska and Hawaii. This tax would terminate after June 30, 1980, under present law.

Air transportation between the United States and a foreign station which is not more than 225 miles from the nearest point in the continental United States, as well as between two such foreign stations, generally is subject to the tax where payment for the travel is made in the United States. The tax does not apply to transportation between the United States and other foreign stations where payment is made outside the United States, nor does it apply to the U.S. portions of certain uninterrupted international air transportation. The passenger tax does not apply to the portion of flights to and from Alaska and Hawaii which are not made over the U.S.

In the case of air transportation of property, the 1970 Act imposed a new tax of 5 percent of the air freight waybill charge; this tax is scheduled to terminate on July 1, 1980. In determining taxable transportation, the same rules generally apply as for transportation of persons.

These taxes are collected by the air carrier, for subsequent deposit in the trust fund. Exemptions from these taxes are provided for transportation by small aircraft on nonestablished lines and for private air transportation services provided within a group of affiliated corporations. Aircraft not subject to these passenger or freight taxes are subject to the fuels tax, mentioned below.

In addition, there is a 7-cent-a-gallon tax on aviation fuels used by noncommercial aviation, an aircraft use tax<sup>1</sup>, and a tax on aircraft tires and tubes. The fuels tax was an increase from the previous net

<sup>1</sup> The aircraft use tax consists of two parts: (1) a \$25 annual per plane registration tax, plus (2) a weight tax of 3½ cents per pound for turbine-powered (jet) aircraft and 2 cents per pound for nonturbine-powered aircraft for each pound in excess of 2,500 pounds of "maximum certificated takeoff weight."

tax of 2 cents a gallon for aviation use and is scheduled to be reduced again on July 1, 1980; the aircraft use tax was also new and is scheduled to expire on July 1, 1980; and the tax on aircraft tires and tubes was merely a transfer of revenues on such tires and tubes from the Highway Trust Fund.

### **B. Trust Fund Budget Authority**

The Airport and Airway Trust Fund was established as of July 1, 1970 (Title II of the Airport and Airway Development Act of 1970; Public Law 91-258), and is scheduled to expire as of September 30, 1980. As mentioned above, the 1970 Act provided that new and increased aviation user taxes are to be deposited into the trust fund and, with interest earned on the deposits, are to be available to meet specified airport and airway obligations of the United States incurred under Title I of the 1970 Act as it was in effect on the date of enactment. As a result, subsequent expansion of Title I trust fund budget authority was to require corresponding amendments to the Title II trust fund language, which is within the jurisdiction of the Ways and Means Committee.

Titles I and II of the 1970 Act authorized trust fund expenditures through fiscal year 1975 for the maintenance and operation of air navigation facilities, qualified airport planning and construction purposes, airway facilities and equipment, research and development, safety, and related departmental administrative expenses. A 1971 amendment (Public Law 92-174) to Title I, however, removed the authority for spending trust fund monies for maintenance and operation of the airway system. This amendment also limited the authority for meeting administrative costs from the trust fund only to such administrative expenses related to the remaining authorized purposes. (The 1971 legislation was reviewed by the Ways and Means Committee, but no amendment was made to the trust fund title of the 1970 Act.)

A 1973 amendment (Public Law 93-44) to Title I of the 1970 Act increased the authorization levels for airport grants for fiscal years 1974 and 1975, increased the Federal share for certain airport grants and safety and security equipment costs, and amended the definition of airport development to specifically include airport security equipment required under DOT regulations. (The 1973 legislation was not considered by the Ways and Means Committee.)

The Airport and Airway Development Act Amendments of 1976 further amended Title I of the 1970 Act to include several additional expenditure categories to be authorized from the trust fund. The new expenditure categories were: snow removal equipment; noise suppressing equipment; construction of physical barriers and landscaping for the purpose of reducing the effect of aircraft noise in areas adjacent to public airports; acquisition of land or property interest for airport noise control purposes; airport terminal development (the public, non-revenue-producing areas, including baggage facilities and passenger moving equipment); and specified amounts for maintenance of airway facilities. Thus, the 1971 prohibition against authorizing airway maintenance costs from the Trust Fund was partially removed in the 1976 amendment. In addition, the 1976 Act provided authorization levels for airport grants and other existing Trust Fund expenditure programs through fiscal year 1980, and increased the Federal share for certain airport grants for fiscal years 1977 and 1978.

The 1976 Act also included a Ways and Means Committee amendment to the trust fund language to conform to the Public Works Committee authorization provisions added by the Act. Thus, the present trust fund contains language to authorize obligations incurred under Title I of the 1970 Act or under the 1976 Act amendments, that is, "as such Acts were in effect on the date of enactment of the Airport and Airway Development Act Amendments of 1976".



### III. PROPOSED LEGISLATION

#### A. Airport and Aircraft Noise Reduction Bill

##### 1. *Purposes of Airport and Airway Trust Fund*

In H.R. 8729, as reported by the Committee on Public Works and Transportation, the purposes of the trust fund would be broadened to authorize grants specifically for a noise reduction program in and near airports.

In Title I of the bill, the Secretary of Transportation would be authorized to develop an effective noise compatibility program. Grants could be made to sponsors of air carrier airports to include noise compatibility in projects for airport development. The sponsors would be the same persons who presently are eligible for grants for terminal development costs, and, in effect, the bill would provide supplements to the present grant programs.

The grants would permit (1) measurement of noise at airports and the surrounding areas, (2) determination of the noise impact from airport operations on individuals, and (3) preparation of noise impact maps and noise compatibility programs.

The bill would authorize amounts not in excess of \$150 million for fiscal year 1979 and not in excess of \$250 million for fiscal year 1980 to be appropriated out of the Airport and Airway Trust Fund for the issuance of such grants.

##### 2. *Funding airport development*

Budget authorizations for airport development grants in title II would be increased by \$260 million in fiscal year 1979 and \$310 million in fiscal year 1980 to meet increased costs of airport development and to meet, according to the Public Works Committee report, a near-term bulge in costs that could not be covered by presently authorized funding levels. The following table shows the changes.

#### CHANGES IN AIRPORT DEVELOPMENT AUTHORIZATIONS UNDER H.R. 8729—FISCAL YEARS 1979-80

[In millions of dollars]

	Fiscal year 1979		Fiscal year 1980	
	Air carrier airports	General aviation airports	Air carrier airports	General aviation airports
Present level.....	495	80	525	85
H.R. 8729 level.....	720	115	793	127
Increase.....	225	35	268	42
Total fiscal year 1979 increase, \$260,000,000.				
Total fiscal year 1980 increase, \$310,000,000.				

In addition, title II of the bill would continue through fiscal year 1980 the 90 percent Federal share (due to drop under current law to 80 percent at the end of fiscal year 1978) for airport development projects at all but the largest 65 airline-served airports.

### 3. *Surcharge on air transportation*

#### *Imposition of surcharge*

Under title III of the bill, the Secretary of Transportation would be required to publish a list of aircraft which are not in compliance with Federal noise regulations as of January 24, 1977. In turn, the aircraft operators would be required to inform the Secretary which of the following means they intend to use to comply with the regulations for specific aircraft: (1) retrofitting aircraft engines, (2) replacing engines, or (3) replacing aircraft.

To finance the cost of complying with the anti-noise regulations, the operators would be required to impose the following schedule of surcharges on rates and fares:

- (1) On domestic trips, 2 percent of the charges;
- (2) On international trips, \$2 per person where the fare is less than \$100 and \$10 where the fare is \$100 or more;
- (3) On domestic freight, 2 percent of the charges; and
- (4) On international freight, 5 percent of the charges.

The surcharges would be imposed for 5 years, and an aircraft operator could notify the Secretary of his intention to extend the surcharges for up to 5 additional years.

Aircraft disposed of within 5 years of acquisition would be subject to recapture of the amount withdrawn from the separate account in proportion to the remainder of its 5-year period. Aircraft which were paid for with funds from the surcharge could be leased during the first 5 years only to another operator.

#### *Special accounts and treatment of amounts collected*

Charges collected by each operator would be required to be deposited in a separate account and could be withdrawn only to pay the cost of retrofit or replacement for each noncomplying aircraft on the list promulgated by the Secretary.

In the case of retrofitting, 90 percent of the cost could be paid from the account when the plane has three or fewer engines; 50 percent for aircraft with four or more engines.

When engines would be replaced, 75 percent of the cost could be withdrawn from the account, but the amount could not exceed 40 percent of the cost of replacing the aircraft with a comparable aircraft which would meet the new noise standards.

For replacement aircraft, 40 percent of the cost could be paid from the account, if the aircraft could meet Federal noise standards promulgated on March 3, 1977; 25 percent of the cost could be paid for aircraft that could meet standards in effect on January 1, 1977.

Surcharges would be deposited in separate accounts maintained by each operator until accumulation of sufficient amounts for the operator to meet the standards. Under the bill, none of surcharges would be included in the operator's gross income for purposes of the Internal Revenue Code of 1954.

Excess surcharge collections not needed to comply with the Federal noise control standards would be paid to the Airport and Airways

Trust Fund, through the Secretary of Treasury. The Secretary of Transportation would determine the aircraft costs that could be offset from surcharge revenues for each operator. Foreign air carriers would deposit surcharge receipts to the Airport and Airway Trust Fund and would be refunded amounts spent to comply with Federal anti-noise standards.

### **B. Administration's Proposed Reduction in Trust Fund Taxes**

In the President's Budget for fiscal year 1979, the Administration proposes a reduction of 2 percentage points in the 8-percent passenger ticket tax and the 5-percent tax on air freight waybills. The Administration states in the budget submission that the 2-percentage point reduction in the passenger ticket and waybill taxes are part of a program to assure full compliance with Federal aircraft noise abatement regulations.

In the budget, it is estimated that enactment of these proposals would reduce Trust Fund receipts by \$334 million in fiscal year 1979: \$295 million from the passenger ticket tax; \$28 million from the waybill tax, and \$11 million less interest earned on trust fund investments. (See the Appendix for projected Trust Fund revenues and budget authority under present law and under the proposed changes.)



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**APPENDIX: STATISTICAL MATERIAL ON AIRPORT AND  
AIRWAY TRUST FUND**

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Table 1.—Estimated Airport and Airway Trust Fund Tax Revenues Under Present Law, Fiscal Years 1977-85

(Millions of dollars)

Tax	1977 (actual)	1978	1979	1980	1981	1982	1983	1984	1985
Passenger ticket tax (8 percent)-----	1,007	1,070	1,179	1,277	1,373	1,466	1,556	1,646	1,726
Waybill tax (5 percent)-----	51	64	71	76	82	90	98	106	115
Fuel tax (7¢ a gallon)-----	54	65	70	77	82	89	96	103	109
International departure tax (\$3)-----	57	60	64	67	70	75	80	84	88
Aircraft use tax <sup>1</sup> -----	22	26	28	30	32	34	35	36	37
Tires and tubes <sup>2</sup> -----	1	1	1	1	1	1	1	1	1
<b>Total</b> -----	<b>1,191</b>	<b>1,287</b>	<b>1,412</b>	<b>1,527</b>	<b>1,640</b>	<b>1,754</b>	<b>1,865</b>	<b>1,976</b>	<b>2,077</b>

<sup>1</sup> The aircraft use tax consists of two parts: (1) a \$25 annual per plane registration tax, plus (2) a weight tax of 3½ cents per pound for turbine-powered (jet) aircraft and 2 cents per pound for nonturbine-powered aircraft for each pound in excess of 2,500 pounds of maximum certificated takeoff weight.

<sup>2</sup> A tax of 5 cents per pound on tires (the rate for nonhighway tires) and 10 cents per pound on tubes.

Source: Department of Transportation, Federal Aviation Administration (January 1978 projection)

NOTE.—The projections assume the extension of the existing aviation user tax structure beyond the existing law scheduled reduction or expiration date. Also, details may not add to totals due to rounding.

Table 2.—Estimated Airport and Airway Trust Fund Tax Revenues Under Administration Proposal,<sup>1</sup> Fiscal Years 1979-85

[Millions of dollars]

Tax	1979	1980	1981	1982	1983	1984	1985
Passenger ticket tax (6 percent)-----	884	957	1,030	1,100	1,167	1,234	1,294
Waybill tax (3 percent)-----	43	46	49	54	59	64	72
Fuel tax (7¢ a gallon)-----	70	77	82	89	96	103	109
International departure tax (\$3)-----	64	67	70	75	80	84	88
Aircraft use tax <sup>2</sup> -----	28	30	32	34	35	36	37
Tires and tubes tax <sup>3</sup> -----	1	1	1	1	1	1	1
<b>Total</b> -----	<b>1,089</b>	<b>1,178</b>	<b>1,264</b>	<b>1,352</b>	<b>1,437</b>	<b>1,522</b>	<b>1,601</b>
Tax reduction from present law-----	323	349	376	402	428	454	476

<sup>1</sup> Assumes enactment of proposed tax reductions, effective Oct. 1, 1978, as follows: (1) domestic passenger ticket tax reduced from 8 percent to 6 percent and (2) freight waybill tax reduced from 5 percent to 3 percent.

<sup>2</sup> See footnote 1 in table 1.

<sup>3</sup> See footnote 2 in table 1.

Note.—The projections assume that the aviation tax structure is extended beyond the existing law scheduled expiration or reduction date. Also, details may not add to totals due to rounding.

Source: FAA (January 1978 projection).



Table 3.—Airport and Airway Trust Fund Projection Under Present Law, Fiscal Years 1978-85

[Millions of dollars]

Item	1978	1979	1980	1981	1982	1983	1984	1985
Beginning uncommitted balance.....	1,709	2,076	2,526	3,060	3,747	4,597	5,617	6,818
Plus: Trust fund revenues (taxes).....	1,287	1,412	1,527	1,640	1,754	1,865	1,976	2,077
Less: Program authorizations.....	-1,130	-1,211	-1,275	-1,275	-1,275	-1,275	-1,275	-1,275
Airport grants (ADAP).....	(555)	(590)	(625)	(625)	(625)	(625)	(625)	(625)
Maintenance of airway facilities.....	(275)	(300)	(325)	(325)	(325)	(325)	(325)	(325)
Facilities and equipment (F. & E.).....	(250)	(250)	(250)	(250)	(250)	(250)	(250)	(250)
Research, engineering and development (R.E. & D.).....	(50)	(71)	(75)	(75)	(75)	(75)	(75)	(75)
Subtotal.....	1,867	2,277	2,778	3,425	4,226	5,187	6,318	7,620
Plus: Estimated interest.....	209	249	282	322	371	430	500	582
Ending uncommitted balance.....	2,076	2,526	3,060	3,747	4,597	5,617	6,818	8,202

Assumptions:

1. Revenues are projected using current (January 1978) FAA aviation activity forecasts and existing tax rates.
2. Does not assume enactment of Public Works noise bill (H.R. 8729).
3. Amounts for ADAP, F. & E., and Maintenance are as specified in existing legislation through 1980, and then straight-

lined through 1985. Amounts for R.E. & D. through 1980 represent DOT/FAA's best estimate at this time and are then straight-lined through 1985.

4. Interest is calculated on the cash balance using 6½ percent after 1978.

Source: FAA (January 1978 projection)

Table 4.—Airport and Airway Trust Fund Projection Under Proposed Changes, Fiscal Years 1978-85

[Millions of dollars]

Item	1978	1979	1980	1981	1982	1983	1984	1985
Beginning uncommitted balance	1,709	2,076	1,696	1,187	980	769	558	349
Plus: Trust fund revenues (taxes)	1,287	1,089	1,178	1,264	1,352	1,437	1,522	1,601
Less: Program authorizations	-1,130	-1,636	-1,835	-1,590	-1,655	-1,720	-1,785	-1,850
Airport grants (ADAP)	(555)	(590)	(625)	(660)	(695)	(730)	(765)	(800)
Maintenance of airway facilities	(275)	(300)	(325)	(350)	(375)	(400)	(425)	(450)
Facilities and equipment (F. & E.)	(250)	(250)	(250)	(250)	(250)	(250)	(250)	(250)
Research, engineering and development (R.E. & D.)	(50)	(71)	(75)	(80)	(85)	(90)	(95)	(100)
Public Works bill (H.R. 8729):								
Increased ADAP grants		(260)	(310)	(0)	(0)	(0)	(0)	(0)
Anti-noise program		(165)	(250)	(250)	(250)	(250)	(250)	(250)
Subtotal	1,867	1,529	1,039	861	677	487	296	101

Plus: Estimated interest----- 209

Ending uncommitted balance----- 2, 076

164

172

183

200

221

233

258

460

659

860

1, 061

1, 260

1, 762

*Assumptions for Table 4.*

1. Revenues are projected using current FAA aviation activity forecasts and tax rates in effect as of Sept. 30, 1977.
2. Assumes enactment of Public Works noise bill (H.R. 8729) and the Administration's proposed tax reductions, effective Oct. 1, 1978, as follows: (a) domestic passenger ticket tax reduced from 8 percent to 6 percent; and (b) freight waybill tax reduced from 5 percent to 3 percent.
3. Amounts for ADAP, F. & E. and Maintenance are as specified in existing legislation through 1980. Amounts for R.E. & D. through 1980 represent DOT/FAA's best estimate at this time.
4. ADAP and Maintenance are projected to increase in 1981 through 1985 by annual amounts of \$35 million and \$25 million, respectively, which is identical to the amount of increases authorized in 1979 and 1980.
5. F. & E. is straight-lined through 1985 at the existing authorization level of \$250 million.
6. R.E. & D. is projected to increase by \$5 million per year in 1981-85.

7. Public Works bill noise compatibility program authorization level of \$250 million for 1980 is projected through 1985.

8. Interest is calculated on the cash balance using 6% percent after 1978.

9. Assumes, with enactment of the noise bill, the concurrent repeal of language in section 14(e) of the Airport and Airway Development Act which restricts the funding of maintenance whenever the sum of the minimum annual program authorizations exceeds tax receipts to the Trust Fund.

10. The estimated uncommitted balance of \$258 million as of the end of fiscal year 1985 assumes that the increased ADAP grant authorization levels for fiscal years 1979 and 1980 under H.R. 8729 are not continued in later years. If such increased ADAP authorization levels were to be extended beyond fiscal year 1980, the trust fund would approach a negative balance before 1985 (under the assumed tax reductions).

Source: Based on FAA data (January 1978 projections).



